

AMENDED IN SENATE APRIL 6, 2010

SENATE BILL

No. 1391

Introduced by Senator Yee

February 19, 2010

An act to ~~amend Section 17002 of~~ *to add Sections 17060 and 23603* to the Revenue and Taxation Code, relating to *taxation to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1391, as amended, Yee. ~~Personal income tax: definitions. Tax credits: reporting information and recapture.~~

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would require a taxpayer doing business in California that claims a tax credit to submit to the Franchise Tax Board on the original return specified information, including the number of employees employed by the taxpayer in the state, the amount of tax credits claimed by the taxpayer on the return, and the number of jobs created by the tax credit.

The bill would also require, in cases in which a taxpayer subject to the above provisions has a net decrease in the number of full-time employees for a credit added by statute on or after January 1, 2011, the credit to be disallowed and the entire amount of any credit previously allowed to be recaptured and the taxpayer to be liable for any credits on previous tax returns, as specified.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for

passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law imposes taxes on taxable income and provides, among other things, that specified definitions govern the construction of that law.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17060 is added to the Revenue and
2 Taxation Code, to read:

3 17060. (a) Notwithstanding any provision of this part, a
4 taxpayer doing business in the state that claims any credit against
5 the “net tax,” as defined in Section 17039, shall annually submit
6 to the Franchise Tax Board on the timely filed original return the
7 following information:

8 (1) The number of full-time employees, as defined, part-time
9 employees, and temporary employees employed by the taxpayer
10 in the state.

11 (2) The amount of tax credits claimed by the taxpayer on the
12 return for each tax credit under this part.

13 (3) The number of full-time jobs, part-time jobs, and temporary
14 jobs created by the tax credit.

15 (4) A list of occupations, job classifications, and expected
16 average wages for the full-time jobs, part-time jobs, and temporary
17 jobs created by the tax credit.

18 (5) A certification by the taxpayer that the information is true
19 and correct and contains no knowing misrepresentation.

20 (6) The taxpayer’s office mailing address and office telephone
21 number.

22 (b) Notwithstanding any provision of this part, for any credit
23 against the “net tax,” as defined in Section 17039, added to this
24 chapter on or after January 1, 2011, the credit shall be disallowed,
25 and the entire amount of any credit previously allowed under this
26 part shall be recaptured and the taxpayer shall be liable for any
27 credits on previous tax returns if the taxpayer has a net decrease

1 *in the number of full-time employees according to the information*
2 *specified in (a).*

3 *(1) The net decrease in qualified full-time employees shall be*
4 *determined on an annual full-time equivalent basis by subtracting*
5 *from the amount determined in subparagraph (A) the amount*
6 *determined in subparagraph (B).*

7 *(A) The total number of qualified full-time employees employed*
8 *in the preceding taxable year by the taxpayer and by any trade or*
9 *business acquired by the taxpayer during the current taxable year.*

10 *(B) The total number of full-time employees employed in the*
11 *current taxable year by the taxpayer and by any trade or business*
12 *acquired during the current taxable year.*

13 *(2) “Annual full-time equivalent” means either of the following:*

14 *(A) In the case of a full-time employee paid hourly qualified*
15 *wages, “annual full-time equivalent” means the total number of*
16 *hours worked for the taxpayer by the employee (not to exceed*
17 *2,000 hours per employee) divided by 2,000.*

18 *(B) In the case of a salaried full-time employee, “annual*
19 *full-time equivalent” means the total number of weeks worked for*
20 *the taxpayer by the employee divided by 52.*

21 *(3) All employees of the trades or businesses that are treated*
22 *as related under either Section 267, 318, or 707 of the Internal*
23 *Revenue Code shall be treated as employed by a single taxpayer.*

24 *SEC. 2. Section 23603 is added to the Revenue and Taxation*
25 *Code, to read:*

26 *23603. (a) Notwithstanding any provision of this part, a*
27 *taxpayer doing business in the state that claims any credit against*
28 *the “tax” ,as defined in Section 23036, shall submit to the*
29 *Franchise Tax Board on the timely filed original return the*
30 *following information annually when filing a return:*

31 *(1) The number of full-time employees, as defined, part-time*
32 *employees, and temporary employees employed by the taxpayer*
33 *in the state.*

34 *(2) The amount of tax credits claimed by the taxpayer on the*
35 *return for each tax credit under this part.*

36 *(3) The number of full-time jobs, part-time jobs, and temporary*
37 *jobs created by the tax credit.*

38 *(4) A list of occupations, job classifications, and expected*
39 *average wages for the full-time jobs, part-time jobs, and temporary*
40 *jobs created by the tax credit.*

1 (5) A certification by the taxpayer that the information is true
2 and correct and contains no knowing misrepresentation.

3 (6) The taxpayer's office mailing address and office telephone
4 number.

5 (b) Notwithstanding any provision of this part, for any credit
6 against the "net tax," as defined in Section 17039, added to this
7 chapter on or after January 1, 2011, the credit shall be disallowed,
8 and the entire amount of any credit previously allowed under this
9 part shall be recaptured and the taxpayer shall be liable for any
10 credits on previous tax returns if the taxpayer has a net decrease
11 in the number of full-time employees according to the information
12 specified in (a).

13 (1) The net decrease in qualified full-time employees shall be
14 determined on an annual full-time equivalent basis by subtracting
15 from the amount determined in subparagraph (A) the amount
16 determined in subparagraph (B).

17 (A) The total number of qualified full-time employees employed
18 in the preceding taxable year by the taxpayer and by any trade or
19 business acquired by the taxpayer during the current taxable year.

20 (B) The total number of full-time employees employed in the
21 current taxable year by the taxpayer and by any trade or business
22 acquired during the current taxable year.

23 (2) "Annual full-time equivalent" means either of the following:

24 (A) In the case of a full-time employee paid hourly qualified
25 wages, "annual full-time equivalent" means the total number of
26 hours worked for the taxpayer by the employee (not to exceed
27 2,000 hours per employee) divided by 2,000.

28 (B) In the case of a salaried full-time employee, "annual
29 full-time equivalent" means the total number of weeks worked for
30 the taxpayer by the employee divided by 52.

31 (3) All employees of the trades or businesses that are treated
32 as related under either Section 267, 318, or 707 of the Internal
33 Revenue Code shall be treated as employed by a single taxpayer.

34 SEC. 3. This act provides for a tax levy within the meaning of
35 Article IV of the Constitution and shall go into immediate effect.

36 ~~SECTION 1. Section 17002 of the Revenue and Taxation Code~~
37 ~~is amended to read:~~

1 ~~17002. Except where the context otherwise requires, the~~
2 ~~definitions in this chapter govern the construction of this part.~~

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